

31 May 2022



## New Foreign Exchange Regulations Issued

- Set foreign exchange limits for travelers
- Restrictions for residents to maintain bank accounts outside Tanzania
- Forex transactions only through banks
- Payments by non-residents through banks
- Limitations on dealing between affiliates provided
- Guidance on how to remit dividends to shareholders
- Set requirements for capital and financial account transactions
- TZS 1M fine per day for non-registration of a foreign loan
- Conditions provided for outward direct investment and purchase of real assets by residents
- Governor vested with powers to grant exemptions
- Penalties in the Act cemented
- Repeal the 1998 and 2003 Regulations

In exercise of his power under section 6 of the Foreign Exchange Act, the Governor of the Bank of Tanzania has issued new detailed foreign exchange Regulations vide the Foreign Exchange Regulations, 2022 (the Regulations) which came into force on 13 May 2022.

Regulation 3(2) of the Regulations provides that residents travelling abroad may be issued with foreign currency by a bank, financial institution or bureau de change of an amount not exceeding USD 10,000. It should be noted that the same limitation is provided for under the Foreign Exchange (Bureau de Change) Regulations, 2015. Further to the above and prior to issuance of the said amount, a resident will be required to submit documentary evidence of residence and valid travelling documents.

The Regulations prohibit residents to open or maintain a bank account outside Tanzania except where there is a settlement of securities in the prescribed territory (a member country of the East African Community or Southern Africa Development Community countries) or where one obtains an approval from the Governor. The Regulations define resident as a person who resides consecutively or whose centre of predominant economic interest is in the United Republic for twelve months or more. Although these Regulations remain untested, it would seem that an expatriate who is working in Tanzania for more than twelve months may not be able to operate a foreign bank account in their country of residence without permission of the Governor.

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The Regulations oblige an exporter to make sale of foreign currency through a bank where the exporter maintains an account relationship. Further, a bank is prohibited from buying foreign currency from an exporter with whom it has no account relationship and also imposes a mandatory requirement of payment by non-residents to residents to be done through banks only.

Moreover, regulation 11 imposes a restriction on offsetting of financial claims. It provides that where an export transaction is between affiliate companies, the exporter is required to ensure that there is no offsetting of financial claims.

Although the Regulations require an importer to make payments for imports of goods and services through a bank, regulation 13(2) allows an importer to use other means of payment where the value of import consignment does not exceed USD 10,000. It is worth noting that before the bank makes direct payments, the importer is required to submit necessary supporting documents such as pro-forma invoice, supply contract, and permit (where necessary).

Additionally, the Regulations prescribe outward remittance procedure as follows:

- (1) Education or medical expenses: requires the applicant to submit supporting documents in form of a letter, or invoice from the respective educational or medical institution;
- (2) Living allowances: requires the applicant to submit their identity card, copy of relevant pages of passport of the beneficiary and request from the beneficiary in the form of a letter, email, fax or any other formal communication approved by the bank
- (3) In respect of various purposes by expatriates: requires the applicant to submit relevant employment contract and work permit;
- (4) Retirement benefits: requires the applicant to submit an employment contract and pension award letter from the respective pension fund;
- (5) Insurance or reinsurance: requires the applicant to submit a no-objection letter from the Commissioner of Insurance;
- (6) Consultancy, management or royalty agreements: requires the applicant to submit contractual documents, invoice/fee notes and tax clearance certificate; and
- (7) Technology transfer agreement covered by the law governing promotion and facilitation of investment: requires the applicant to submit to the bank proof of registration of agreement and facilitation of investment.

The Regulations also demand a bank to be provided with audited financial statements or dividends payment notice and proof of payment of all relevant taxes prior to making remittances outside Tanzania in respect of dividends or profit to foreign shareholders. Further, the Regulations prohibit non-residents to purchase, sell or transfer government securities unless is of a prescribed territory or a Tanzanian citizen in the diaspora.

In regard to foreign borrowing, the Regulations cement the requirement that is provided for under the Foreign Exchange Circular, No. 6000/DEN/EX.REG/58 of September 1998, to register foreign loans that exceed a tenure of 365 days and be assigned Debt Registration Number. Upon receipt of foreign loans/proceeds and if banks fail to submit the required documents for registration with the Bank of Tanzania within 14 days, the Regulations impose a penalty on the bank of TZS 1M for each day that the loan remains unregistered. Equally, the same penalty will be imposed on the borrower if the borrower fails to submit relevant documents to the bank or the loan proceeds are paid by the lender directly to

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the supplier without involvement of the bank registered in Tanzania and the loan remains unregistered for more than 14 days.

It is also important to note that the Regulations prohibit banks to register foreign loans which contain unfavorable terms and conditions such as agreements that contain conditions precedents which require borrowers to open a foreign currency account outside Tanzania.

Moreover, the Regulations allow residents to remit funds in a prescribed territory for purposes of engaging in outward direct investment or acquisition of real estate or real assets. In doing so, the Regulations require remittance to be through a bank and submission of various documents such as certificate of incorporation issued in the host country, business licence, tax registration and tax clearance certificate and any other applicable permits where necessary.

It is worth noting that the Regulations empower the Governor to issue general or specific exemptions regarding any obligation or prohibition that is stipulated under these Regulations.

Lastly, the Regulations impose punishment for contravening the above requirements of a fine of not more than TZS 4M or imprisonment for a term not exceeding 14 years or to both. The Regulations also revoke the Foreign Exchange Regulations of 1998 and the Foreign Exchange (Listed Securities) Regulations, 2003.

To read the Foreign Exchange Regulations, 2022 [click here](#).

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